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DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-862]

Certain Uncoated Groundwood Paper from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain uncoated groundwood paper (UGW paper) from Canada. The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: David Crespo or Whitley Herndon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3693 or (202) 482-6274, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on September 1, 2017.¹ On October 19, 2017, Commerce postponed the

¹ See *Certain Uncoated Groundwood Paper from Canada: Initiation of Countervailing Duty Investigation*, 82 FR 41603 (September 1, 2017) (*Initiation Notice*).

preliminary determination of this investigation and the revised deadline is now January 8, 2018.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is UGW paper from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.

² *See Certain Uncoated Groundwood Paper from Canada: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 82 FR 48681 (October 19, 2017).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

Commerce intends to issue its preliminary decision regarding comments concerning the scope of the antidumping (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁷ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of UGW paper from Canada based on a request made by the petitioner.⁸ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than May 22, 2018, unless postponed.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ See sections 776(a) and (b) of the Act.

⁸ See Letter from the petitioner, “Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Request for Alignment,” dated December 18, 2017.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individually estimated countervailable subsidy rates for Catalyst Paper Corporation (Catalyst), Kruger Trois-Rivieres L.P. (Kruger), and Resolute FP Canada Inc. (Resolute), that are not zero, *de minimis*, or based entirely on facts otherwise available.⁹ Commerce calculated the all-others rate using a weighted-average of the individually estimated subsidy rates calculated for the examined respondents using each company's business proprietary data for the merchandise under consideration.¹⁰

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

⁹ See *MacLean-Fogg Co. v. United States*, 753 F.3d 1237 (Fed. Cir. 2014) (holding that voluntary respondents are considered "individually investigated" for purposes of calculating the all-others rate). Commerce accepted White Birch Paper Canada Company NSULC (White Birch) as a voluntary respondent in this investigation. However, we have preliminarily calculated a *de minimis* subsidy rate for White Birch; thus, in accordance with Sections 703(d) and 705(c)(5)(A) of the Act, we have not included White Birch's *de minimis* subsidy rate in the calculation of the all-others rate for this preliminary determination.

¹⁰ See Memorandum, "Countervailing Duty Investigation of Certain Uncoated Groundwood Paper from Canada: All Others Rate Calculation for Preliminary Determination," dated January 8, 2018.

Company	<i>Ad Valorem</i> Subsidy Rate (percent)
Catalyst Paper Corporation ¹¹	6.09
Kruger Trois-Rivieres L.P. ¹²	9.93
Resolute FP Canada Inc. ¹³	4.42
White Birch Paper Canada Company NSULC ¹⁴	0.65 (<i>de minimis</i>)
All-Others	6.53

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above. Because the subsidy rate for White Birch is *de minimis*, Commerce is directing CBP not to suspend liquidation of entries of the merchandise from this company.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no

¹¹ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Catalyst Paper Corporation: Catalyst Paper, Catalyst Pulp Operations Limited, and Catalyst Pulp and Paper Sales Inc.

¹² As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Kruger Trois-Rivieres L.P.: Kruger Publication Papers Inc., Corner Brook Pulp and Paper Limited, Kruger Energy Bromptonville LP, Kruger Holdings L.P., Kruger Holdings GP Inc., and Kruger Inc.

¹³ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Resolute FP Canada Inc.: Resolute FP Canada, Fibrek General Partnership (Fibrek), and Resolute Growth.

¹⁴ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with White Birch Paper Canada Company NSULC: Papier Masson WB (White Birch) LP, FF Soucy WB LP, and Stadacona WB LP.

public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁵ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

¹⁵ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: January 8, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Enforcement and Compliance,
performing the non-exclusive function and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes certain paper that has not been coated on either side and with 50 percent or more of the cellulose fiber content consisting of groundwood pulp, including groundwood pulp made from recycled paper, weighing not more than 90 grams per square meter. Groundwood pulp includes all forms of pulp produced from a mechanical pulping process, such as thermo-mechanical process (TMP), chemi-thermo mechanical process (CTMP), bleached chemi-thermo mechanical process (BCTMP) or any other mechanical pulping process. The scope includes paper shipped in any form, including but not limited to both rolls and sheets.

Certain uncoated groundwood paper includes but is not limited to standard newsprint, high bright newsprint, book publishing, directory, and printing and writing papers. The scope includes paper that is white, off-white, cream, or colored.

Specifically excluded from the scope are imports of certain uncoated groundwood paper printed with final content of printed text or graphic. Also excluded are papers that otherwise meet this definition, but which have undergone a supercalendering process.¹⁶

Certain uncoated groundwood paper is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) in several subheadings, including 4801.00.0120, 4801.00.0140, 4802.61.1000, 4802.61.2000, 4802.61.3110, 4802.61.3191, 4802.61.6040, 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.6140, 4802.69.1000, 4802.69.2000, and 4802.69.3000. Subject merchandise may also be imported under several additional subheadings including 4805.91.5000, 4805.91.7000, and 4805.91.9000.¹⁷ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

¹⁶ Supercalendering imparts a glossy finish produced by the movement of the paper web through a supercalender which is a stack of alternating rollers of metal and cotton (or other softer material). The supercalender runs at high speed and applies pressure, heat, and friction which glazes the surface of the paper, imparting gloss to the surface and increasing the paper's smoothness and density.

¹⁷ The following HTSUS numbers are no longer active as of January 1, 2017: 4801.00.0020, 4801.00.0040, 4802.61.3010, 4802.61.3091, and 4802.62.6040.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope Comments
 - IV. Injury Test
 - V. Subsidies Valuation
 - VI. Application of Facts Otherwise Available and Facts Otherwise Available With An Adverse Inference
 - VII. Analysis of Programs
 - VIII. Conclusion
- Appendix I: Not-Used and Not-Measurable Programs, by Company
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